

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NICHOLAS AGBOGUN, :
 :
 v. : Civil No. 3:02cv2119(AHN)
 :
JOHN ASHCROFT, et.al. :

ORDER

Upon review and consideration of the petition for a writ of habeas corpus filed by petitioner Nicholas Agbogun ("Agbogun"), the Court sua sponte and for the following reasons, hereby ORDERS that this case be transferred to the Western District of Louisiana.

At the time he filed his habeas petition, Agbogun was and continues to be detained by the Immigration and Naturalization ("INS") Service in Oakdale, Louisiana. It is well settled that a writ of habeas corpus is directed to the "custodian" of a detainee, and that no writ may issue where there is no personal jurisdiction over that custodian. See 28 U.S.C. § 2243 ("The writ, or order to show cause[,] shall be directed to the person having custody of the person detained."); Braden v. 30th Judicial Cir. Court of Kentucky, 410 U.S. 484, 494-95 (1973) ("The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be

unlawful custody."); Billiteri v. United States Bd. of Parole, 541 F.2d 938, 948 (2d Cir. 1976) (holding that warden, not parole board, is custodian: "prisoner. . . is under the control of a warden and confined in a prison, and . . . is seeking, in a habeas corpus action, to be released from precisely that form of confinement"). It is also well settled that a detainee's "custodian" is the official in charge of the facility that has day-to-day control over him, and who can "produce the actual body." See Yi v. Maugans, 24 F.3d 500, 507 (3d Cir. 1994); see also Guerra v. Meese, 786 F.2d 414, 416 (D.C. Cir. 1986).

Here, the INS District Director in New Orleans, Louisiana is Agbogun's custodian and is the person who exercises day-to-day control over him. See 8 C.F.R. §§ 100.2(d)(2)(ii) (2000) (INS districts, "[h]eaded by district directors . . . are responsible for the administration and enforcement of the Act and all other laws relating to immigration and naturalization within their assigned geographic areas of activity") & 100.4(b)(28) (2000) (geographical jurisdiction of INS's New Orleans district, including the entire state of Louisiana).

This Court does not have personal jurisdiction over the New Orleans District Director, because he cannot be served with process in Connecticut. Thus, because both petitioner and his custodian are in Louisiana, any habeas corpus petition must be filed in the Western

District of Louisiana. Accordingly, the Clerk is directed to transfer this case to the Western District of Louisiana.¹

SO ORDERED this day of December, 2002 at
Bridgeport, Connecticut.

Alan H. Nevas
United States District Judge

¹ To the extent petitioner raises a derivative citizenship claim, the claim should be raised to the court in the Western District of Louisiana or directly with the INS.